

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-____-C

IN RE:

Application of Rosebud Telephone, LLC)	
for a Certificate of Public Convenience and)	
Necessity to Provide Resold and Facilities-)	
Based Local Exchange and Interexchange)	
Telecommunications Services in the State of)	
South Carolina, For Flexible Regulation First)	
Approved in Docket No. 97-467-C and for)	
Alternative Regulation First Approved in)	
Docket No. 95-661-C)	

APPLICATION

Rosebud Telephone, LLC (“Rosebud” or “Applicant”), by counsel, and pursuant to S.C. Code Ann. § 58-9-280, respectfully requests that the South Carolina Public Service Commission (the “Commission”) grant this Application for a Certificate of Public Convenience and Necessity to provide facilities-based and resold local exchange and interexchange telecommunications service throughout the State of South Carolina. Rosebud also requests flexible regulation for its local exchange telecommunications services as the Commission first granted in Order No. 98-165 in Docket No. 97-467-C. Pursuant to S.C. Code Ann. §58-9-585 and the general regulatory authority of the Commission, Applicant also requests that the Commission regulate its interexchange service offerings as described below in accordance with the principles and procedures established for alternative regulation in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, and as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C. Rosebud further requests, pursuant to R. 103-601(3) of the Commission’s rules, that the Commission waive application to it of certain Commission rules, as outlined herein.

In support of its application, Rosebud respectfully submits as follows:

1. The name and address of the Applicant are:

Rosebud Telephone, LLC
105 S. 5th Street
Rosebud, Texas 76570
Telephone: 254/583-2700
Facsimile: 254/583-2027

2. All correspondence, notices, inquiries, and other communications regarding this application should be addressed to:

John J. Pringle, Jr.
Ellis, Lawhorne & Sims, P.A.
1501 Main Street, 5th Floor,
Columbia, SC 29202
Telephone: (803) 343-1270
Facsimile: (803) 799-8479

3. Contact person regarding ongoing operations of the Company is:

Mark Foster
Attorney at Law
707 West Tenth Street
Austin, TX 78701
Telephone: (512) 708-8700
Facsimile: (512) 697-0058 Fax
Email: mark@mfoosterlaw.com

4. Description of Applicant

Rosebud is a limited liability company organized under the laws of the State of Texas. Rosebud's principal place of business is in Rosebud, Texas. Rosebud is a competitive local exchange carrier ("CLEC") specializing in offering dial tone solutions for private pay telephone owners and operators, Automated Teller Machine ("ATM") owners, and other aggregator businesses. A copy of Rosebud's Articles of Organization and Certificate of Authority to Transact Business in the State of South Carolina are attached hereto as **Exhibit 1**.

5. Customer Service and Billing

Rosebud recognizes the importance of effective customer service. Customer service representatives are available from 8:00 AM to 5:00 PM Central Standard Time by calling 1-877-413-6959. Messages may be left for Customer Services from 5:01 PM to 7:59 AM CST. Messages will be answered on the next business day, except in the event of an emergency which threatens customer service, in which case Customer Service Staff may be paged.

Rosebud will bill customers directly for its services. Customer billing conducted by the Company will comply with Commission Rule 103-622. Customers with inquiries or complaints may call the Applicant by means of its customer service telephone number.

6. Financial Ability

Rosebud possesses the financial qualifications required for issuance of the requested Certificate of Public Convenience and Necessity. As evidence of its capacity to render the proposed services, please see **Exhibit 2** for Rosebud's financial statements for the year ending December 31, 2010. Rosebud has sufficient capital on hand to commence operations in the State of South Carolina.

7. Managerial and Technical Ability

Rosebud is technically and managerially qualified to operate and manage its proposed telecommunications operations in South Carolina. The senior management of Rosebud has extensive experience in the provision of telecommunications service. Biographies outlining the technical and managerial experience of Rosebud's key personnel are provided in **Exhibit 3**. These biographies reflect that Rosebud possesses significant expertise for operating a telecommunications company. In addition to the senior management, Rosebud has highly

qualified technical personnel to ensure that Rosebud's operations will meet demanding standards for service quality and reliability.

8. Description of Services Offered and Proposed Service Territory

Rosebud seeks authority to provide facilities-based and resold nondominant interexchange services and local exchange services (hereinafter referred to as "Services") to customers throughout the State of South Carolina. Applicant proposes to provide these Services through a combination of its own facilities and facilities to be leased from a variety of telecommunications carriers. A copy of Rosebud's proposed local exchange and long distance tariffs are attached hereto as **Exhibit 4** and **Exhibit 5**.

Rosebud is well-qualified to provide telecommunications services in South Carolina. Applicant currently offers a variety of telecommunications services, in the following states: Alabama, Arkansas, California, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nevada, New York, Oklahoma, Texas.

Additionally, Applicant is also seeking certification in Mississippi. Applicant has not been denied authority for any of the services for which it seeks authority in this Application.

9. Public Interest and Need

The granting of Rosebud's Application is consistent with S.C. Code Ann. § 58-9-280(B), and, in that regard, Rosebud makes the following representations to the Commission:

1. Rosebud possesses the requisite technical, financial, and managerial resources sufficient to provide the services requested;
2. Rosebud's services will meet service standards required by the Commission;
3. The provision of services by Rosebud will not adversely impact the availability of affordable telecommunications service;
4. Rosebud, to the extent it is required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and
5. The provision of services by Rosebud will not adversely impact the public interest.

Granting of Rosebud's Application for a Certificate of Public Convenience and Necessity to provide the services described within this Application is in the public interest and will serve the public convenience and necessity. The public interest will be served by expanding the availability of competitive telecommunications services and enhanced telecommunications infrastructure in the State of South Carolina, thereby facilitating economic development. Authorizing Rosebud to enter the telecommunications service market will increase the competitive choices available, and in turn create incentives for all carriers to lower prices, provide new and better quality services, and be more responsive to customer issues and demands.

10. Marketing

Rosebud will market its services through word of mouth and through the efforts of salespersons familiar with the payphone telephone industry.

11. Waivers and Regulatory Compliance

Rosebud requests that, pursuant to Rule 103-601(3), the Commission grant it a waiver of those regulatory requirements that are inapplicable to Rosebud's services.¹ Specifically, Rosebud requests a waiver of the following Commission Rules:

- **Rule 103-610:** requiring a utility to maintain its records in the State of South Carolina. Rosebud is headquartered in Texas. As a result, it would be impractical for Rosebud to maintain separate records in South Carolina. If the Commission or the Office of Regulatory Staff ("ORS") determines it is necessary to review Rosebud's books, Rosebud will provide this information to the Commission

¹ S.C. CODE REGS. § 103-601(3) ("In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rule or regulation may be waived by the Commission upon a finding by the Commission that such a waiver is not contrary to the public interest.")

and/or the ORS upon request or will bear the cost of any out-of-state travel expenses incurred by Commission or ORS staff.

- **Rule 103-611:** to the extent this regulation requires the use of the FCC's Uniform System of Accounts (USOA). Because Rosebud is a privately-held, competitive carrier without market power and exempt from the USOA, it would be burdensome and unnecessary to require it to comply with this Rule. Rosebud maintains its books and records in accordance with the Generally Accepted Accounting Principles ("GAAP"), and asserts that because it utilizes GAAP, the Commission and the ORS will have a reliable means by which to evaluate operations.

Such waivers have previously been granted under similar circumstances, and Rosebud respectfully requests that the Commission similarly grant the aforementioned waivers in the context of this Application.

12. Flexible Regulation of Local Exchange Services

Rosebud requests flexible regulation for its local exchange telecommunications services as the Commission granted in Order No. 98-165 in Docket No. 97-467-C. In the Order, the Commission determined that local tariff filings would be presumed valid upon filing, subject to the Commission's right within thirty days to institute an investigation of the tariff filing, and that any tariff filings would be subject to the same monitoring process as other similar local exchange carriers. Rosebud submits that as a competitive provider of local exchange telecommunications services, it should be subject to regulatory constraints no more stringent than those imposed in Docket No. 97-467-C. Rosebud respectfully requests that its local exchange tariff filings be regulated pursuant to this form of flexible regulation.

13. Alternative Regulation of Business Service Offerings. Applicant requests that all of its business service offerings be regulated pursuant to the procedures described and set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C. It is Applicant's intent by this request to have its business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States, Inc. ("AT&T"). Specifically, Applicant requests that the Commission:

(a) remove the maximum rate tariff requirements for its business services, consumer card, operator service,² private line, and customer network-type offerings;

(b) presume that the tariff filings for these uncapped services be valid upon filing. However, if the Commission institutes an investigation of a particular filing within seven (7) days, the tariff filing would be suspended until further order of the Commission; and

(c) grant Applicant the same treatment as AT&T in connection with any future relaxation of the Commission's reporting requirements.

CONCLUSION

This Application clearly demonstrates that Rosebud possesses the requisite technical, financial and managerial qualifications to provide facilities-based telecommunications service throughout the State of South Carolina. Furthermore, granting this Application for a Certificate of Public Convenience and Necessity will promote the public interest, comport with the public convenience and necessity, and meet pertinent legal and regulatory requirements for such applications.

² Excepting those operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected the local exchange carrier as their toll provider. Operator surcharges and per-minute rates for this type of call were capped by Commission Order No. 2001-997, dated November 8, 2001.

WHEREFORE, Rosebud respectfully requests that the Commission issue it a Certificate of Public Convenience and Necessity to provide resold and facilities-based telecommunications service throughout the State of South Carolina, as proposed herein and set forth in the attached tariff. Rosebud also requests that the Commission regulate its local exchange services in accordance with the principles and procedures established in Order No. 98-165 in Docket No. 97-467-C, regulate its business interexchange service offerings pursuant to the procedures described and set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C, grant the waivers requested herein, and grant such other relief as is just and proper.

Respectfully submitted,

s/John J. Pringle, Jr.

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June 20, 2011

Columbia, South Carolina